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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,295	11/15/2005	Cristiano Casale	1034170-000028	6251

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BUCHANAN, INGERSOLL & ROONEY PC
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EXAMINER

TUCKER, DANIEL P

ART UNIT	PAPER NUMBER
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4159

NOTIFICATION DATE	DELIVERY MODE
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10/20/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/531,295	Applicant(s) CASALE ET AL.	
	Examiner Daniel Tucker	Art Unit 4159	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/14/2005</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 10 recites the limitation "said breakable connecting means" in line 2. There is insufficient antecedent basis for this limitation in the claim. Claim 10 depends on Claim 9 which depends on Claim 1. Neither Claim 1 nor Claim 9 discloses a breakable connecting means.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 8, 9, 12, and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,839,627 (Hicks et al. hereinafter) in view of US Patent No. 5,484,101 (Hedberg hereinafter).



Fig. 9 of US Patent No. 5,839,627 (Hicks et al. hereinafter)

6. In re Claim 1, with reference to Fig. 9 above, Hicks et al. discloses:

A sealed package (200) for pourable food products,

- having at least one removable portion (210),

- and a closable opening device (218) in turn comprising a frame (226) defining a pour opening (224) and fixed to said package (200) about said removable portion (210),
- a cap (218) fitted to said frame (226) to close said pour opening (224) and movable to free the pour opening (224),
- and pull-off opening means housed in said frame and comprising a rigid plate (208 and 220) integral with said removable portion (210) and extractable from the frame (226), by pulling action (arrow 222), together with at least part of said removable portion (210); ~~characterized by also comprising a pull tab of sheet material interposed between said removable portion and said plate and attached to both.~~

7. Hicks et al. does not disclose a pull tab of sheet material interposed between the removable portion and the plate and attached to both.

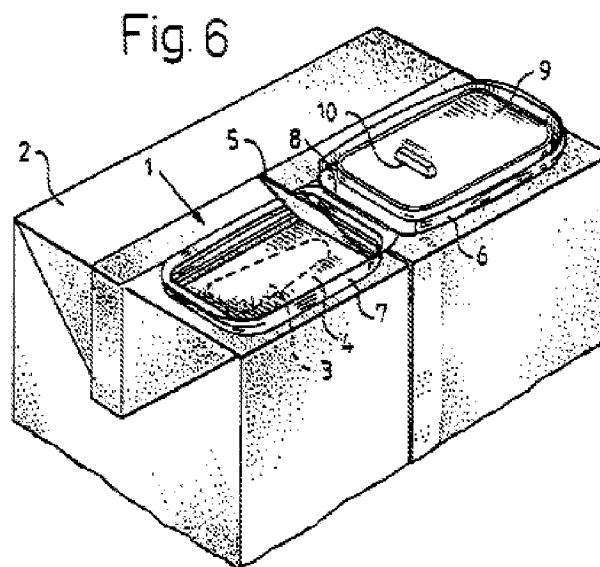


Fig. 6 of US Patent No. 5,484,101 (Hedberg hereinafter)

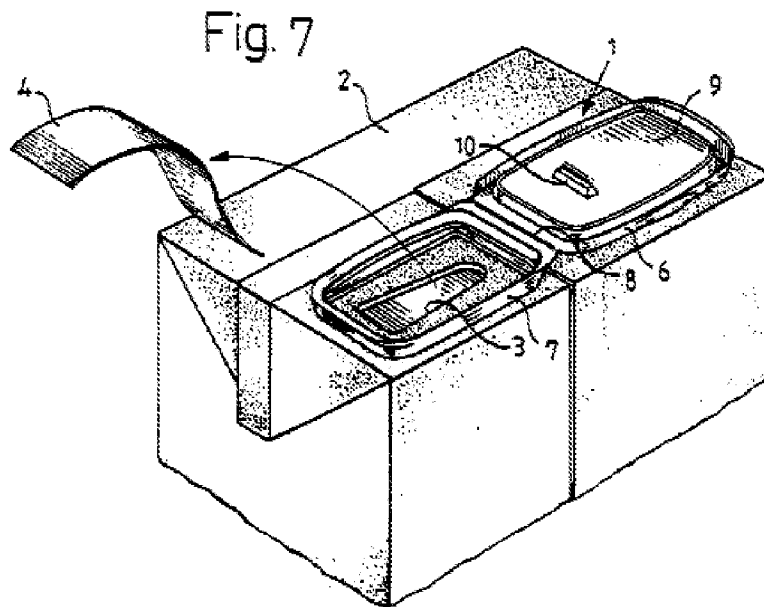


Fig. 7 of Hedberg

8. However, with reference to Fig. 6 and Fig. 7 above, Hedberg discloses a pull tab (4) of sheet material.

9. Therefore it would have been obvious to one having ordinary skill in the pertinent art at the time the invention was made to have modified the package disclosed by Hicks et al. to have a pull tab of sheet material as taught by Hedberg for the predictable result of sealing the opening and connecting the rigid plate to the removable portion.

10. In re Claim 2, with reference to Fig. 6 above, Hedberg discloses that said pull tab comprises a main portion (4) and an end portion (5) folded over said main portion (4).

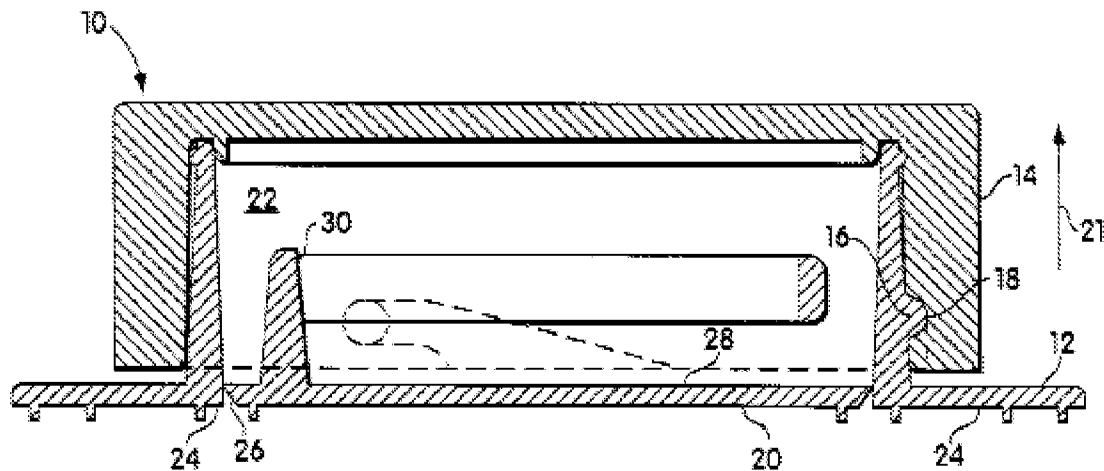


Fig. 1A

Fig. 1A of Hicks et al.

11. In re Claim 3, with reference to Fig. 1A above, Hicks et al. discloses that said plate (20, 28, 30) is connected integrally to said frame (12) by breakable connecting means (23, 24; col. 5, lines 7-12) defining a parting direction in which said plate (20) is parted from the frame (12), and which is parallel to the opening direction of said pull tab.

12. In re Claim 4, with reference to Fig. 9, Hicks et al. discloses that said plate (208, 220) comprises a base portion (208) attached to said pull tab; and a grip portion (220;) projecting from said base portion (208) and accessible through said frame (226) when said cap (218) is removed from said pour opening (224).

13. In re Claim 8, with reference to Fig. 1A above, Hicks et al. discloses that said plate (20, 28, 30) is connected integrally to said frame (12) by breakable connecting means (23, 24; col. 5, lines 7-12) defining a parting direction in which said plate (20) is parted from the frame (12), and which is parallel to the opening direction of said pull tab.

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14. In re Claim 9, with reference to Fig. 9, Hicks et al. discloses that said plate (208, 220) comprises a base portion (208) attached to said pull tab; and a grip portion (220) projecting from said base portion (208) and accessible through said frame (226) when said cap (218) is removed from said pour opening (224).

15. In re Claim 12, with reference to Fig. 9 above, Hicks et al. discloses that said grip portion (220) is substantially ring shaped (col. 5, line 4), projects from one end of said base portion (208), and is bent over the base portion (208).

16. In re Claim 13, Hedberg discloses that said removable portion comprises a patch of thermoplastic material applied inside of said package to close a through hole in the package (col. 2, lines 36-45).

17. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks et al. in view of Hedberg as applied to claims 1-4 above, and further in view of US Patent No. 3,576,272 (Colby hereinafter).

18. In re Claim 5, Hicks et al. in view of Hedberg discloses the claimed invention except for two parallel breakable strips of material.

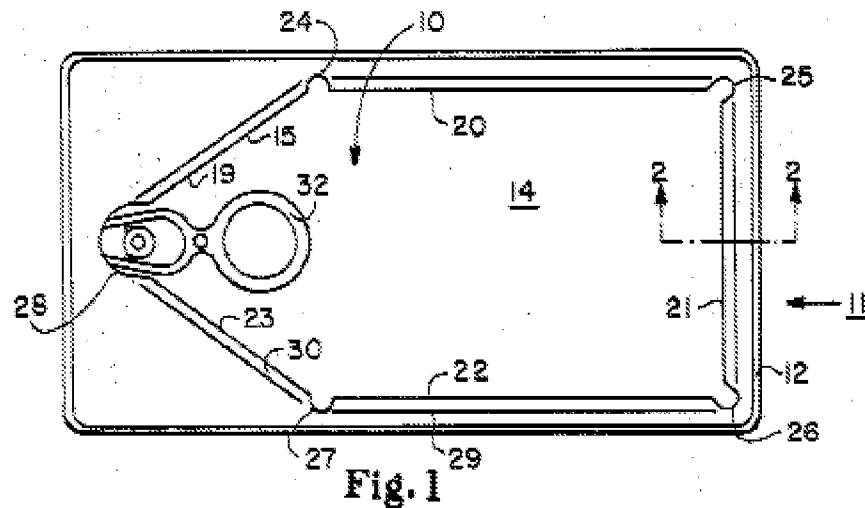


Fig. 1 of US Patent No. 3,576,272 (Colby hereinafter)

19. However, with reference to Fig. 1 above, Colby discloses breakable connecting means comprising two parallel strips of breakable material (20, 22).

20. Thus, it would have been obvious to one having ordinary skill in the pertinent art at the time the invention was made to have modified the package disclosed by Hicks et al. in view of Hedberg to have two parallel breaking strips as taught by Colby for the predictable result of connecting the base portion of the plate to the frame in a parallel manner.

21. In re Claim 6, with reference to Fig. 9 above, Hicks et al. discloses that said grip portion (220) is substantially ring shaped (col. 5, line 4), projects from one end of said base portion (208), and is bent over the base portion (208).

22. In re Claim 7, Hedberg discloses that said removable portion comprises a patch of thermoplastic material applied inside of said package to close a through hole in the package (col. 2, lines 36-45).

23. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hicks et al. in view of Hedberg as applied to claim 9 above, and further in view of Colby.

24. In re Claim 10, Hicks et al. in view of Hedberg discloses the claimed invention except for two parallel breakable strips of material.

25. However, with reference to Fig. 1 above, Colby discloses breakable connecting means comprising two parallel strips of breakable material (20, 22).

26. Thus, it would have been obvious to one having ordinary skill in the pertinent art at the time the invention was made to have modified the package disclosed by Hicks et al. in view of Hedberg to have two parallel breaking strips as taught by Colby for the predictable result of connecting the base portion of the plate to the frame in a parallel manner.

27. In re Claim 11, with reference to Fig. 9 above, Hicks et al. discloses that said grip portion (220) is substantially ring shaped (col. 5, line 4), projects from one end of said base portion (208), and is bent over the base portion (208).

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 6,231,491 B1 discloses a closure having a cap and a plate having a base and a ring shaped grip. US Patent No. 6,129,228 discloses a closure having a cap and a plate having a base and a ring shaped grip. US Patent No. 5,735,426 discloses a closure having a cap and a plate having a base and a ring shaped grip. US Patent No. 5,069,372 discloses a closure having a cap and a plate having a base and a ring shaped grip. US Patent No. 6,079,618 discloses a closure

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having a cap and a plate having a base and a ring shaped grip. US Patent No. 4,948,015 discloses a closure having a cap and a plate having a base and a ring shaped grip.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Tucker whose telephone number is (571)270-5722. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on (571)272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. T./

Examiner, Art Unit 4159

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/George Nguyen/
Supervisory Patent Examiner, Art Unit 4159